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Notice of Inquiry)

Unbundling of Natural Gas) D.T.E. 98-32

Local Distribution Company Services)

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SETTLEMENT AGREEMENT

The ten investor-owned local distribution companies (the "LDCs"), (1) energy marketers (the "Marketers"), (2) the Attorney General of the Commonwealth of Massachusetts (the "Attorney General"), Associated Industries of Massachusetts ("AIM"), the Division of Energy Resources ("DOER"), and The Energy Consortium ("TEC") (collectively, the "Settling Parties") hereby agree, subject to approval by the Department of Telecommunications and Energy (the "Department"), to resolve certain issues, as specified herein, relating to the mandatory assignment of capacity to customers in accordance with the Department's Order of February 1, 1999 (D.T.E. 98-32-B) (the "Order"). Specifically, this Settlement Agreement is intended to address and resolve the issues concerning the identification of customers who will be included in the mandatory capacity-assignment programs that will be implemented by the LDCs pursuant to the Order. This Settlement Agreement does not address issues relating to the final policies and terms and conditions that will enable customers to access the resource portfolios of the LDCs. Specifically, this Settlement Agreement does not address, and therefore leaves for subsequent negotiations within the Massachusetts Gas Unbundling Collaborative (the "Collaborative"), issues relating to: (1) the development of terms and conditions for mandatory assignment of upstream capacity to sales customers electing transportation service on or after November 1, 1999; (2) the terms and conditions for the "virtual assignment" of the LDCs' downstream supplemental resources and related issues; and (3) interruptible transportation.

ARTICLE I

INTRODUCTION

1.1 Whereas, by order dated February 1, 1999, the Department directed the LDCs to implement a mandatory capacity-assignment program providing for the recallable transfer of the LDCs' portfolio resources to customers converting to transportation service;

1.2 Whereas, the Model Terms and Conditions developed by the Collaborative and approved by the Department on November 30, 1998, did not include terms and conditions for the assignment of capacity to customers migrating to transportation service (section 13.0), or terms and conditions for access to the downstream supplemental resources of the LDCs (section 16.0);

1.3 Whereas, terms and conditions providing for the mandatory assignment of capacity to customers converting from sales to transportation service and access to the downstream supplemental resources of the LDCs are necessary elements of the implementation of the Department's Order;

1.4 Whereas, Collaborative participants intend to develop terms and conditions to provide for the mandatory assignment of capacity and access to downstream supplemental resources on a consensus basis, which is anticipated to require a period of several months to complete because of the number and complexity of the issues involved;

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1.5 Whereas, competitive suppliers require more certainty as to the economics of the mandatory capacity-assignment program, including the virtual assignment of downstream supplemental resources, in order to continue sales activities in the Commonwealth during the interim period between the date of the Order, February 1, 1999, and the date on which new implementation tariffs and terms and conditions will become effective, currently estimated as November 1, 1999;

1.6 Whereas, transportation customers who have made a written request for service or are taking such service as of the date of the Order, February 1, 1999, and the competitive suppliers that serve such customers, have entered into contractual arrangements based on economic factors and Department-approved transportation tariffs in effect at the time of such agreement, and therefore, may be substantially affected by application of mandatory capacity assignment;

1.7 Now therefore, the Settling Parties agree to the terms of this Settlement Agreement, which represents a balancing of interests designed to meet: (i) the Department's mandate to implement a mandatory capacity-assignment program that is consistent with the Department's determination that the LDCs continue their obligation to provide reliable, least-cost service; and (ii) the Department's objective of promoting customer choice characterized by viable and meaningful competition in the gas industry for the benefit of all customers.

ARTICLE II

NEW AND EXISTING TRANSPORTATION CUSTOMERS

2.1 For the purposes of this Settlement Agreement, the Settling Parties agree that, if there is a change in the customer of record at a meter location, the provisions of the Settlement Agreement, as well as sections 13.0 and 16.0 of the Model Terms and Conditions, will apply to the new customer of record based on the status of the former customer served at that meter location. The Settling Parties further agree that for purposes of this Settlement Agreement, a sales customer shall mean any customer who requests and receives both local transportation and gas supply service from the LDC, and a transportation customer shall mean any customer who requests and receives local transportation service from the LDC (subject to applicable capacity assignment) and receives gas supply service from a third-party supplier.

2.2 The Settling Parties agree that any customer who was either taking transportation service from an LDC on February 1, 1999, or had a written request filed with the appropriate LDC on or before the date of the Order, February 1, 1999, including customers participating in the Bay State Gas Company Customer Choice Pilot Program, shall be exempt from the mandatory assignment of capacity now and in the future, unless such customer, or its designated representative, is already subject to the mandatory assignment of capacity, or unless and until such transportation customer becomes a firm sales customer of the LDC in the future or elects to participate in the capacity-assignment process established in sections 2.4 and 2.5 of the Settlement Agreement.

2.3 The Settling Parties agree that new transportation customers, i.e., customers who are not firm sales or firm transportation customers as of February 1, 1999, and who make an application to be placed on an LDC's system as a transportation customer after February 1, 1999, will not be subject to the capacity-assignment provisions of sections 13.0 and 16.0 of the Model Terms and Conditions at the time that they receive their initial service or in the future, unless and until such transportation customer becomes a firm sales customer of the LDC.

2.4 The Settling Parties agree that individual LDCs will hold a 90-day "open-season" period prior to November 1, 1999, during which time transportation customers existing as of February 1, 1999, who are otherwise exempted from participating in an LDCs' capacity-assignment program, would have the opportunity to elect to participate in the mandatory capacity-assignment program of their respective LDC pursuant to the provisions and requirements of sections 13.0 and 16.0 of the Model

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Terms and Conditions. In order to minimize customer confusion, the Settling Parties agree to develop a consensus-based proposal with regard to the terms, timing and customer communications associated with the open-season process.

2.5 The Settling Parties agree that, in addition to the open-season process established in section 2.4 above, transportation customers not subject to the mandatory assignment of capacity may apply, without becoming a sales service customer of the LDC, to receive capacity from the LDC in the future in accordance with the standards, practices and requirements applied to a request for the initiation of sales service as specified in section 4.2 of the Settlement Agreement.

ARTICLE III

SALES CUSTOMERS CONVERTING TO TRANSPORTATION SERVICE FROM FEBRUARY 2, 1999 THROUGH OCTOBER 31, 1999

3.1 The Settling Parties agree that any sales customer of an LDC who is currently eligible for transportation service, or its designated representative, submitting a written request to convert to transportation service during the period beginning February 2, 1999 through and including October 31, 1999 (the "Interim Period"), shall be assigned capacity consistent with the provisions of section 13.0 and 16.0 of the Model Terms and Conditions on November 1, 2000, provided, however, that such customers shall be immediately subject to the terms of said program if returning to the sales service of the LDC prior to November 1, 2000, or if converting from daily-metered service to non-daily-metered service prior to November 1, 2000, (3) whereupon, said customer shall become subject to the capacity-assignment and downstream supplemental resource provisions of sections 13.0 and 16.0, respectively, of the Model Terms and Conditions.

3.2 The Settling Parties agree that, in lieu of receiving capacity as part of the mandatory-assignment program during the period between February 2, 1999 and October 31, 2000, sales customers converting to transportation service during the Interim Period shall pay the LDC directly \$0.01 per unit (therm or ccf) of throughput volume transported by the customer. The Settling Parties agree that the LDCs will collect this charge from customers and revenues resulting from said charge shall be credited to residential customers. The Settling Parties agree that the \$0.01 charge and the credit to residential customers were determined as a result of settlement discussions between the parties and shall have no precedential effect.

3.3 The Settling Parties agree that, during the period of September 1, 1999 through October 31, 1999, residential sales customers shall have the opportunity to elect to convert to transportation service effective on November 1, 1999, consistent with the terms set forth below. The Settling Parties agree that such election right will be available to the residential sales customers of all LDCs not currently administering a mandatory capacity-release program. The Settling Parties further agree that such election opportunity will be available to eligible customers who, through their designated representative, have submitted a written request with the LDC, on a first-come first-serve basis, only during the period of September 1, 1999 to November 1, 1999, and only until 5 percent of an LDC's total residential customer base has made such election, unless 5 percent or more of an LDC's residential customers are transportation customers as of the date of the Settlement Agreement, in which case such election opportunities for residential customers shall be limited to those customers in the LDC's service areas where a residential transportation program has not previously been available, and only up to 1 percent of the LDC's total residential-customer base. The Settling Parties agree that any residential sales customer making such election shall, in lieu of receiving capacity as part of the mandatory assignment program during the period between November 1, 1999 and October 31, 2000, be charged \$0.01 per unit (therm or ccf) of throughput volume transported by the customer during that one-year period. The Settling Parties agree that the LDCs will collect this charge directly from customers and revenues

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resulting from said charge shall be credited to residential customers. All customers electing and receiving this one-year service opportunity will become subject to the mandatory capacity-assignment program of the applicable LDC on November 1, 2000, pursuant to the provisions of sections 13.0 and 16.0 of the Model Terms and Conditions. The Settling Parties agree that the \$0.01 charge and the credit to residential customers were determined as a result of settlement discussions between the parties and shall have no precedential effect.

3.4 The Settling Parties agree that customers converting from sales to transportation service during the Interim Period shall do so pursuant to and consistent with the LDCs' now-existing transportation programs and currently effective transportation tariffs and associated terms and conditions, except that customers converting from sales to transportation service during the Interim Period will be deemed eligible to return to the LDC's sales service at any time between February 1, 1999 and November 1, 2000.

3.5 The Settling Parties agree that revised rate schedules may need to be filed with the Department, and that new terms and conditions designed to implement the requirements of the Order will be filed with the Department. The Settling Parties agree that, as of November 1, 1999, customers who converted from sales to transportation service during the Interim Period will remain subject to the effective rate schedules, as revised for effect November 1, 1999, and the new Model Terms and Conditions, with the exception of sections 13.0 and 16.0 relating to capacity assignment and the allocation of downstream supplemental resources, which shall be applied to customers on November 1, 2000, unless said customer returns to sales service of the LDC prior to November 1, 2000, or converts from daily-metered service to non-daily-metered service prior to November 1, 2000. Customer communications regarding changes to LDC tariffs will be developed on a collaborative basis with the Settling Parties.

3.6 The Settling Parties agree that, following the Department's approval of the Settlement Agreement, the LDCs shall file amended transportation terms and conditions with the Department to indicate that sales customers converting to transportation service during the Interim Period shall be assigned capacity consistent with the provisions of section 13.0 and 16.0 of the Model Terms and Conditions on November 1, 2000, unless said customer returns to sales service of the LDC prior to November 1, 2000, or converts from daily-metered service to non-daily-metered service prior to November 1, 2000, whereupon, said customer shall become subject to the capacity-assignment and downstream supplemental resource provisions of sections 13.0 and 16.0, respectively, of the Model Terms and Conditions.

3.7 The Settling Parties agree that any customer converting to transportation service during the Interim Period shall be notified directly by the LDC when requesting to convert to transportation service that, on November 1, 2000, the customer shall be assigned capacity consistent with the provisions of section 13.0 and 16.0 of the Model Terms and Conditions, unless said customer returns to sales service of the LDC prior to November 1, 2000, or converts from daily-metered service to non-daily-metered service prior to November 1, 2000, whereupon, said customer shall become subject to the capacity-assignment and downstream supplemental resource provisions of sections 13.0 and 16.0, respectively, of the Model Terms and Conditions. The Settling Parties agree to develop a consensus-based proposal for such communications with customers converting to transportation service during the Interim Period, which would be provided to the customer as part of the customer acknowledgment.

ARTICLE IV

New Sales Customers and Sales Customers Converting to Transportation Service On or After November 1, 1999

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4.1 In accordance with the Order, all firm sales customers converting to firm transportation service on or after November 1, 1999, shall be subject to the capacity-assignment and downstream supplemental-resource provisions of sections 13.0 and 16.0, respectively, of the Model Terms and Conditions.

4.2 The Settling Parties agree that, with the exception of Interim Period customers as specified in section 3.3, if a customer is receiving service as a transportation customer, but has not been assigned a pro-rata share of capacity, and subsequently applies to convert to sales service, the LDC will consider such application in accordance with the standards, practices and requirements applied to a request for the initiation of service to a new and previously unserved applicant for sales service. The Settling Parties agree that, consistent with current practice and section 5.0 (Customer Request for Service From Company) of the Model Terms and Conditions, such customers may be accepted to sales service based on the sole discretion of the LDC. In the event that the LDC cannot provide the customer with sales service, the LDC will provide such customer with a list of marketers who may serve the customer's load.

4.3 The Settling Parties recognize that section 15.0 (Default Service) of the Model Terms and Conditions will need to be modified to be consistent with the provisions of this Settlement Agreement and any terms and conditions developed pursuant to the Order.

SECTION V

CONDITIONS

5.1 This Settlement Agreement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in this proceeding is true or false, nor shall it bind any party from asserting a different position on the law and the facts in other judicial or administrative proceedings in which the terms of this Settlement Agreement are not applicable. The entry of an order by the Department approving this Settlement Agreement shall not in any respect constitute a determination by the Department as to the merits of any issue raised in this proceeding.

5.2 The discussions that have produced this Settlement Agreement have been conducted on the understanding that all offers and counteroffers, and discussions relating thereto, are privileged, confidential and without prejudice to the position of any party in the event that this Settlement Agreement is not approved. This Settlement Agreement is conditioned on approval by the Department. The provisions of this Settlement Agreement are not severable. In the event that this Settlement Agreement is not approved as submitted by April 2, 1999, then it shall be deemed to be withdrawn and shall not constitute any part of the record in this proceeding or be used for any other purpose.

5.3 The Department shall have continuing jurisdiction to enforce the terms of this Settlement Agreement.

The signatories listed below represent that they are authorized on behalf of their principals to enter into this Settlement Agreement.

Respectfully submitted,

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Bay State Gas Company
The Berkshire Gas Company
Blackstone Gas Company
Boston Gas Company
Colonial Gas Company
Commonwealth Gas Company
Essex Gas Company
Fall River Gas Company
Fitchburg Gas and Electric Light Company Commonwealth of Massachusetts
North Attleboro Gas Company Office of the Attorney General

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1.

1 Bay State Gas Company, The Berkshire Gas Company, Blackstone Gas Company, Boston Gas Company, Colonial Gas Company, Commonwealth Gas Company, Essex Gas Company, Fall River Gas Company, Fitchburg Gas and Electric Light Company and North Attleboro Gas Company.

2.

2 The Marketers are: AllEnergy Marketing Company, L.L.C., Conectiv/CNE Energy Services, L.L.C., EnergyRebate, Inc.; EnergyEXPRESS, Inc., Enron Energy Services Inc., Enserch Energy Services, Inc., eprime d/b/a Texas Ohio Gas, Providence Energy Services, , and Statoil Energy, Inc., Select Energy, Inc., Supreme Energy.

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1 This does not preclude an LDC and a marketer from mutually agreeing to convert customers from daily-metered service to non-daily-metered service subsequent to November 1, 1999, in order to resolve operation or administrative issues associated with daily-metering programs.